

REMARKS/ARGUMENTS

Claims 1-22 and 24 are pending in the present application. Claims 1, 8, and 9 have been amended. Claim 23 is canceled. Claims 1, 8, and 9 are independent claims.

In view of the above amendments and the following remarks, the Examiner is respectfully requested to reconsider the outstanding claim rejection.

Allowable Subject Matter

Initially, Applicants wish to thank the Examiner for the indication that claim 8 is allowed, and that claims 9-21 would be allowed if rewritten in independent form. Although not conceding the appropriateness of the Examiner's rejections, claim 9 has been rewritten in independent form. Thus, it is respectfully submitted that claim 9 is in condition for allowance, along with dependent claims 10-21.

Furthermore, Applicants wish to point out that claim 8 has been amended to correct a minor typographical error. Specifically, "device" in line 3 has been changed to -- apparatus-- to be consistent with line 1. Since the amendment to claim 8 is merely related to formal matters, and does not substantively affect the subject matter that the Examiner indicated as being allowed.

Rejection Under 35 U.S.C. § 103

Claims 1-7 and 22-24 stand rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 4,158,885 to Neuberger ("Neuberger") in view of U.S. Patent Application Publication No. U.S. 2002/0105432 to Pederson et al. ("Pederson"). This rejection, insofar as it pertains to the presently pending claims, is respectfully traversed.

Initially, Applicants point out that claim 23 has been canceled above. Thus, this rejection is moot as it pertains to claim 23.

As amended, independent claim 1 now recites that at least one light emitting device emits a light pattern, and that a change in the pilot's perception of this light pattern indicates that the approaching aircraft has fallen off course with respect to an azimuthal or elevational range corresponding to the refueling aircraft's boom envelope.

Applicants respectfully submit that the amendments to claim 1 are fully supported in the originally filed specification at, e.g., paragraphs 0046-0047 (pages 10-11) and 0051-0053 (pages 12-13).

In the Amendment filed on September 23, 2004 ("Previous Amendment"), Applicants argued that neither Neuberger nor Pederson discloses that a change in a pilot's perception of a light pattern

provides positional feedback to the pilot. See Previous Amendment at pages 13-14.

In response, the Examiner argues that "a mere size perception with change in distance provides a positional feedback from one or plural light patterns." See Office Action at page 2.

Assuming for the sake of argument that the change in size perception does provide positional feedback, Applicant respectfully submits that such feedback would not indicate to a pilot whether the pilot's aircraft has fallen off course with respect to the boom envelope of a refueling aircraft. At most, the change in size perception would provide a vague indication as to a change in distance.

Accordingly, Applicants respectfully submit that the Neuberger/Pederson combination neither teaches nor suggests that a change in the visual perception of a light pattern indicates to a pilot that the pilot's aircraft has fallen off course with respect to a boom envelope, as required by claim 1.

It is respectfully submitted that claim 1 is allowable at least for the reasons set forth above. Accordingly, Applicants submit that claims 2-7, 22, and 24 are allowable at least by virtue of their dependency on claim 1. Thus, the Examiner is respectfully requested to reconsider and withdraw this rejection.

Conclusion

Entry of this Amendment After Final is respectfully requested. In view of the above amendments and remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either taken alone or in combination. Thus, Applicants respectfully request the Examiner to withdraw the outstanding claim rejections and issue a Notice of Allowance in this case.

Should the Examiner believe that any outstanding matters remain in the present application, the Examiner is requested to contact Jason W. Rhodes (Reg. No. 47,305) at the telephone number of the undersigned in order to discuss the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART KOLASCH & BIRCH, LLP

By 

D. Richard Anderson, #40,439

P.O. Box 747

Falls Church, VA 22040-0747

(703) 205-8000


DRA/JWR